

Supervisor McKay moved to adopt the agenda as presented. The motion carried by the following vote:

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

3) *Citizen's Comment Period*

Dorothy Davis

I am a member of the Board of Directors at the Josephine School Museum, which is the black history museum here in Clarke County and just celebrated its 20th anniversary last Saturday. We thank those who attended that event.

I am also a member of the Juneteenth Committee, which held the 2nd Annual Juneteenth Celebration in Clarke County on June 17 at the Ruritan Fairgrounds. Over 1,000 people attended that celebration.

One of the things that we focused on at the Juneteenth was a memorial to the enslaved folks who lived in Clarke County. The 1860 census was the last census before the Emancipation Proclamation was signed by Abraham Lincoln. That Clarke County census enumerated 4,735 slaves in this county. This is one of the smaller counties in the state of Virginia. There are no monuments to these slaves. We do not know where their graves are; we know where one or two are. So, the Juneteenth Committee, in an effort to salute and memorialize the 4,735—and I'll repeat that—4,735 slaves. To memorialize them, we decided to place that number of white flags in the ground in the field at the Ruritan Fairgrounds.

The individuals who did this, who planted the flags, were young people from local Boy Scout and Girl Scout troops here in Clarke County. They volunteered, they did this, and they internalized what they were doing.

Following the Juneteenth event, some of those student volunteers were involved in Mrs. Helena Goldberg's music academy. On the day of Juneteenth, she happened to ask the students: "who knows about Juneteenth, do any of you know what this day is?"

One of her very bright young people is a boy scout who helped plant those 4,000-plus flags. He raised his hand and explained to everybody in that academy what Juneteenth was about. He was so impressive. I was not there but I can understand he must have been extremely impressive, because the students in that academy decided upon a project, which they are going to present to you today. I would like for you to hear them, to listen closely, and internalize what they have to tell you.

Jackson Spaulding

I am part of the Green Sloth Records group. Did you know that over 4,000 enslaved people built this county? It is a very large number of people, though over the years they have not had much acknowledgment. We have Josephine Street, but we still do not have a lot of African-American history represented in town outside of that.

This year, I helped my local scout Troop 34 to put down 4,000 flags during the Juneteenth celebration, though that was not permanent. Us at Green Sloth Records and the community would at least like a permit for a permanent memorial. After all, these enslaved people built a lot of the foundation for Berryville and the rest of Clarke. We have already raised hundreds of dollars for this cause. We feel like this will raise awareness of how our community was built.

Nathaniel Johnson

I am from Green Sloth Records and what we are saying is that we want a memorial for the over 4,000—actually 4,735—people who built this town and do not have any memorials for it. If you think about it, that is 4,000 people and we are only asking for one memorial. You know, they all built this town. This town would not be here without them. I bet most of you guys live here, so you definitely should give a memorial to them. They built this town for you and it is just a great thing.

Selen Proulx

I am Vice President of Green Sloth Records. As Vice President, I am responsible for engaging businesses and citizens to support the organization. I do this by spreading the word of Green Sloth Records' events and initiatives to our communities in Berryville, Sterling, and beyond via social media and fliers. We have attended many Berryville community events, including farmers markets and holiday ceremonies, to spread the word of our initiatives via direct contact with our community.

I am also in charge of fundraising for our cause. Just two weeks ago, I published a song that I wrote, sang, and had professionally recorded to a site called bandcamp in which listeners can donate to artists and record labels. By promoting my song on my own social media and that of Green Sloth Records, I raised almost \$200. That is the impact that one song could have towards fundraising for this cause. I am already working on recording more of my original songs to release and my many talented peers at Green Sloth Records are doing the same. We also raise money from ticket sales for our showcases and musicals. Family and friends of our many performers, as well as community members who have seen our advertisements, bring their family and friends to attend these shows and donate. The money from our releases, as well as the profit from our showcases and musicals, are very promising in giving us the ability to pursue any cause of our choice.

The cause that we care the most about to put our efforts and funds towards, is honoring the more than 4000 enslaved individuals that were not properly recognized

for their sacrifices. They were separated from their families against their will and inhumanely treated. Yet they devoted their craftsmanship to building the town we know and love, Berryville. During the Civil War, Virginia fought for the confederacy in support of slavery. As citizens of Virginia and the now free United States, it is our duty to show our support for the change in this country. If we do not actively show our support for these enslaved individuals, we are continuing to do a disservice to their memory. The least we could do to make up for the pain they endured so that we could live and thrive in this town is create a memorial in their honor. Thank you for your time.

Maya Sachdev

I am a junior in high school. I am the President and Co-Founder of Green Sloth Records. Although this analogy is seemingly mundane and meaningless compared to the true, horrible, and inhumane issues enslaved peoples dealt with, it brings the point across. Imagine you are in a competitive academic environment, whether that be high school, or college, the workplace, or whatever means the most for you, and that you are working with colleagues on some work or a project. You come up with the idea and spearhead the process, yet receive no credit and instead get the worst grade or acknowledgment for the project.

I have personally experienced the gut-wrenching feeling of not getting recognized for my work and it crushed me after putting my all into it. I assume we have all dealt with something like this, so why aren't we giving recognition to the thousands of children, women, and men who spent their lives as property, the slaves who built this town they now rest on?

A simple plaque or a simple sentence just acknowledging and memorializing the struggle they went through is enough. Taking one step towards justice will make future leaps easier. Thank you for your time.

Helena Goldberg

I would like to begin by addressing a recent initiative to develop a memorial on the courthouse green to highlight an aspect of African-American history. Citing Mickey Powell, from the Winchester Star, in an article released on July 12: "a master design plan being developed for the Clarke County Courthouse grounds to combat controversy over a Confederate monument is nearing completion...a timeline wasn't given, though...The plan calls for another monument—one specifically highlighting an aspect of African-American history in Clarke County—to be developed and installed on the grounds to counterbalance the Confederate statue."

It was suggested by Rhodeside Harwell, Inc., that a competition should be held for artists to submit ideas for this new monument. And, though one Board member was cited in the article as saying "I'd like to see more of Clarke County's history, not just African American history, depicted in the courthouse grounds improvements", such

as highlighting what the Confederate soldiers did later in their lives, it was also emphasized that it has been determined that the new monument should reflect the African American experience.

I want to differentiate our initiative from the prospective Courthouse Green memorial immediately. Our memorial will not be a reflection of one aspect of an experience. It is to memorialize the over 4,000 individuals who were enslaved here in Clarke County in 1865 and never received recognition for their lives. Our memorial design and location will not be determined by anyone other than the descendants of these 4,000 formerly enslaved individuals. We strongly believe that this is the only appropriate action and to take these decisions away from these descendants is disrespectful. We have already assembled a committee of descendants who have determined four location options for the memorial. None of these locations are the Courthouse Green. I own the Goldberg School of Music on 100 W Main Street here in Berryville, Virginia, which opened in 2018. I developed a summer program in 2019 during which students launched and eventually incorporated a non-profit record label called Green Sloth Records. Since then, students have been recording and releasing their original music and producing showcase musical events. The proceeds from these releases and events are then donated toward various charitable causes or community projects in need.

Mrs. Dorothy Davis is a civil rights pioneer in every sense of the word and she is a living legend. Yet, at the Juneteenth Clarke County Celebration, I heard her voice call out on that stage for something that is significantly overdue in this county. It was on that day, through the words in her speech, that I learned over 4,000 formerly enslaved individuals who lived, worked, and died here in Clarke County were never given proper burial or recognition for their lives.

On day one of Green Sloth Records camp, we determined a fundraising initiative and theme. After hearing her stirring speech, there was seemingly no other option for us than to take up this cause. Since June 19, students have raised almost \$800 and the funds continue to consistently stream in. If fundraising continues this way, we project to raise an additional \$300 by the end of this week and another \$300 by our final showcase event on July 29.

Having lived in Berryville since 2011, I consider it to be a treasure of a community. When I tour with my band nationally and internationally, I love telling everyone I meet about the beauty of our town: the buildings almost preserved in time, the gorgeous architecture, the rich and vibrant culture. These human beings who are being denied memorialization literally built these buildings and homes that we love so much. They cultivated the seeds for the economy and the vibrant essence that makes our town what it is today. For almost 160 years, there has been no monument, no plaque, no graves, not even a permit to obtain the most basic of human decencies. For all these reasons, we are asking for an expedition of this process.

Yet another differentiation between our initiative and the courthouse green prospective monument is that we do have a timeline. Almost 160 years have passed

and nothing has been done to memorialize the people who helped build this community. It seems egregiously unfair to me and the students on my label that the descendants should have to wait unnecessarily long for this memorial to come to fruition. We propose a finalization date of Juneteenth 2024 for the completion and unveiling of this monument. There is a drastic need for the acknowledgment of this large group of human beings who were never given this dignity or respect. There does now seem to be an unstoppable wave of young people invigorated by the injustice of this issue sweeping not just Clarke County but also Loudoun County, where our programs have been held all of July. Let's work together, like the community I have grown to love, cherish, and respect, and do something historic. This has never been done, guys, let's put over 4,000 souls to rest for the first time in 160 years together. I truly believe in our younger generations after this past month. The parents that support them, and I believe in you, too. I believe in you guys. I know that by thinking about an African American monument on the courthouse green you are reaching towards a healing moment, but it just isn't going to be enough. If you recognize the actual human beings who lived, worked, and died here, and let the descendants decide the specifics, and grant us this permit for this memorial, it just might be. Thank you for your time.

Chairman Weiss

Advised that, while the Board normally does not respond directly to public comments during meetings, the comments made today were moving and brought this sobering issue to a fine point. The Board and the community appreciates and supports this, though there may be confusion on the issue of a permit. The community is coming together and hopefully all involved can bring this project to fruition. The proposed timeline is perhaps a bit aggressive, but perhaps it could be done. The county and the town both support this effort.

Supervisor Bass

Shared that he had the opportunity to visit Green Sloth Records and was very impressed with the young people there both for their musical talents and their willingness to engage with the community. It times that are increasingly divisive, it is extremely inspiring in to see young folks coming together and wanting to make their community a better place.

Supervisor Lawrence

Offered context for his remarks as quoted in the recent newspaper article, adding that the county could use the opportunity to tell all of Clarke County's history on the courthouse green, possibly including the local African American soldiers who fought for the Union.

Chairman Weiss

Stated that it is good to note that these are separate projects and nothing has been settled or finalized yet. The Board is committed to recognizing the African American community on the courthouse green as a counterbalance to the Confederate statue, which will remain in place based on the recommendations of the citizen's committee who reviewed and took public comment on that issue.

4) *Employee of the Quarter Award – 2nd Quarter 2023*

Chairman Weiss presented the award to Ann Taylor and read aloud the following statement:

Ann is a dependable, dedicated and hardworking employee. During the last six months (and a few times before that) she has had to not only handle her duties but take over the Treasurer's duties in the Treasurer's absence. She oversaw the office and maintained the operation without difficulties. Her willingness to learn every aspect of the office is commendable. There is not a job put before her that she is not willing to tackle. She is a great motivator for her coworkers and is always willing to help where needed. Ann is a valuable employee not only for the Treasurer's office but for the County.

Chris Boies introduced the county's new Director of Economic Development & Tourism, Michelle Ridings Brown.

5) *VDOT Update*

Assistant Resident Engineer Matt Smith provided the following update for the month of July:

Maintenance Matters:

- Completed ditching and shoulder repairs on Parshall Road and Smallwood Lane
- Trimmed trees on Fishpaw Rd, Cather Rd, Linaburg Ln, and Briggs Rd; trimmed around signs on primary and secondary routes

- Trimmed vegetation to improve sight distance at the intersection of Crums Church at Kimble, Crums Church at Old Charles Town and Kennel Rd at Route 50
- Removed hazard trees on Wickliffe Rd, Old Waterloo Rd, Frogtown Rd, and Route 50
- Patched asphalt on Route 7
- Continuing patching on Parshall Rd
- Installing pipe on Feltner Rd
- Flushing pipes on various routes
- Repairing shoulders on Route 340
- Trimming trees on Briggs and Eilerslie roads

Route 7 Safety Improvement Project:

- Safety enhancement work is scheduled to begin July 17. Improvements include shoulder widening, new rumble strips, new or upgraded guardrail at various locations, and new pavement markings.
- The project is 4.17 miles long, between River Road and Route 7 Business.
- Construction is expected to begin with shoulder-widening work in July and August 2023, followed by installation of rumble strips and guardrail in fall 2023. Contract completion date is December 29, 2023.
- Motorists should be alert for single-lane closures, eastbound closures may take place on weekdays between 9:30 am and 8:30 pm. Westbound lane closures may take place on weekdays or weeknights between 8:0 pm and 1:00 pm. These allowable work times avoid peak traffic flows.

Route 761 – Old Charlestown Road Bridge Project:

- Currently on track to advertise in December 2023, very tight schedule.
- The proposed bridge replacement will be single span replacement option, as this will result in the shortest construction and road closure duration.
- Anticipating a single construction season lasting up to eight months.

Route 340 Widening Project:

- Entire West Virginia portion of the project is still in the Right of Way phase.
- Out of 40 total parcels, only five have been closed; some are in the final stages of negotiation and about half are headed to condemnation.
- Other than establishing a field office, no road construction has been completed. Road construction cannot start until all the right of way has been acquired and utilities adjusted.
- Originally, construction was supposed to be completed by spring 2025, but schedule and delays in the right of way process will move that date back. It is difficult to give a definitive completion date at this time.

Route 340 West Virginia Rockslide Repair Project:

- WVDOT scheduling a repair project that will close Route 340 near Harper's Ferry. Detour signs will start going up in Mid-August.

- Closures/detours will start on September 12 and will be completed by December 11. The completion date is fixed and there will be heavy penalties if that is missed.
- Traffic signals are being modified on Route 9 and Route 671 in Loudoun County. Monitoring this project closely, but not expecting a significant impact on Clarke County roads.

Stop Sign Replacement – Millwood:

- Plan to replace static STOP sign with a blinking STOP sign on southbound Route 255 in Millwood was completed in June as a recognized Safety improvement.
- This will not impact the community’s plan to hire a private consultant.

Chairman Weiss

- Stated that no further work would be done in Millwood until the citizens have the opportunity to bring forward their consultant’s recommendations.

Route 340/723 Intersection – Boyce:

- A crosswalk has been installed on the north side of the intersection across Route 340.

Vice Chair Catlett

- Thanked VDOT for trimming the vegetation surrounding the yellow pedestrian crossing sign in Millwood and requested that it be kept as such permanently because it greatly improves visibility.

Supervisor Lawrence

- Shared a citizen’s concern that the gravel installed on the shoulders of Crum’s Church road did not pack very well and collapses in places.
- Added that there is increased truck traffic on Swimley Road and a tractor-trailer recently ran a citizen off the road and almost caused a bad accident.

Chairman Weiss

- Requested an update on the study of intersection of Shepherd’s Mill Road and Route 7.
- Added that the repaving on Route 7 created a large bump at the entrance to Hawthorne Lane and it needs to be fixed.

6) *Human Resources Update*

Clarke County Human Resources Generalist, Dawn Hatzler, presented the following:

- The most rewarding and exciting part of the job is helping the employees of Clarke County. Sometimes it is simple things such as updating a form or providing information about the Virginia Retirement System, and sometimes it is helping to resolve an issue with a co-worker or something more personal.

- Another important part of the job is getting great people to work here by creating employment strategies or posting jobs, helping with the interviewing process, checking references, and making job offers.
- Helping people to get started on the right foot is also very important. We use a ten-point checklist to make sure that new hires are on-boarded properly. This includes sending them a welcome message with first day information about parking and dress code, helping them to complete their paperwork and register for benefits, showing them various available resources, and making sure they have computer access and keys. Exit interviews are also important, as they give information about why people leave positions or whether they need help with the retirement process.
- We also prepare the Clarke Communicator, a monthly employee newsletter, and arrange presenters and resources from the Virginia Retirement System.
- The most important part of the job is helping to make sure that the county is following all the labor and employee regulations that affect all staff. We help employees and managers with issues such as worker’s compensation, the Family Medical Leave Act, or the Americans with Disabilities Act.
- The Human Resources Generalists job is to help all employees and directors as efficiently and quickly as possible so that they can get back to their primary job of helping the citizens of Clarke County.

7) *Approval of Minutes*

Supervisor Bass moved to approve the minutes of the June 20, 2023 Regular Meeting as presented. The motion carried by the following vote:

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

8) *Consent Agenda*

Vice Chair Catlett moved to adopt the Consent Agenda as presented. The motion carried by the following vote:

Matthew E. Bass - Aye
 Terri T. Catlett - Aye
 Doug M. Lawrence - Aye
 Beverly B. McKay - Aye
 David S. Weiss - Aye

– Resolution of Support for the Virginia America 250 Commission

Clarke County Board of Supervisors



Berryville Voting District
Matthew E. Bass
(540) 955-5175

Millwood Voting District
Terri T. Catlett – Vice Chair
(540) 837-2328

Russell Voting District
Doug Lawrence
(540) 955-2144

Buckmarsh Voting District
David S. Weiss – Chair
(540) 955-2151

White Post Voting District
Bev B. McKay
(540) 837-1331

County Administrator
Chris Boies
(540) 955-5175

**Resolution of Support for the Virginia America 250 Commission
2023-15R**

WHEREAS, the Clarke County Board of Supervisors is dedicated to the furtherance of economic development and tourism in Clarke County; and

WHEREAS, the Virginia America 250 Commission (VA250) was created in 2020 by the General Assembly for the purpose of preparing for and commemorating the 250th anniversary of Virginia’s participation in American independence; and

WHEREAS, VA250 has requested that each locality form a committee to aid in planning for the commemoration period; and

WHEREAS, Clarke County, Virginia, will form a local VA250 committee; and

WHEREAS, the committee will plan and coordinate programs occurring within the locality and communicate regularly with VA250; and

WHEREAS, the Board of Supervisors wishes to undertake this endeavor with VA250 to promote and commemorate this important historic milestone.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Clarke, Virginia:

1. The Board of Supervisors hereby desires to support the Virginia America 250 Commission and their efforts to commemorate the 250th anniversary of Virginia’s participation in American independence.
2. Clarke County, Virginia, will form a committee to aid in planning for the commemoration period.

APPROVED AND ORDERED ENTERED in the official records by the unanimous vote of the Clarke County Board of Supervisors’ members assembled on the 18th day of July, 2023.

ATTEST 2023-15R

David S. Weiss, Chair

- Abstract of Votes: June Republican Primary

ABSTRACT of VOTES

Cast in CLARKE COUNTY, VIRGINIA at the 2023 Republican Primary held on June 20, 2023 for,

Member, Senate of Virginia (1st District)

NAMES OF CANDIDATES ON THE BALLOT	TOTAL VOTES RECEIVED (IN FIGURES)
Brandon H. Monk - Republican	63
Dave A. LaRock - Republican	767
Timmy F. French - Republican	248
James E. Bergida - Republican	78
Lance R. Allen - Republican	38
S. John Massoud - Republican	90
Bradley G. Pollack - Republican	18
Blaine P. Dunn - Republican	21
Total Number of Overvotes for Office	0

We, the undersigned Electoral Board, upon examination of the official records deposited with the Clerk of the Circuit Court of the election held on June 20, 2023, do hereby certify that the above is a true and correct Abstract of Votes cast at said election for the Member, Senate of Virginia (1st District).


Gives this 23rd day of JUNE, 2023

Carol S. Shestervelt, Chairman

Kelly J. Johnson, Vice Chairman

Kay Marano Briggs, Secretary

Kay Marano Briggs, Acting Secretary



9) *Resolution to Initiate Zoning Ordinance Text Amendment (2023-16R)*

Director of Planning and Zoning, Brandon Stidham, presented the following:

- This resolution would initiate a zoning ordinance text amendment regarding solar power plants.
- If the Board adopts this resolution today it will be forwarded to the Planning Commission for development. The Planning Commission would most likely then take it up at their work session in September. Once they draft a text amendment, they would schedule a public hearing, receive comments, make a recommendation, and return it to the Board of Supervisors sometime in the fall for further action.

Chairman Weiss read the proposed resolution aloud.

Vice Chair Catlett

Solar power is an important part of the energy grid. Our county has supported solar facilities, but the full extent may not be evident because the Hecate facilities are only half-complete. Those facilities are also located on land that is not as suitable for farming and is already close to the substation. Also, this does not limit citizen's ability to install solar arrays at their homes, behind the meter.

Supervisor Bass

This is a tough one, as I do support alternative energy and think it is necessary to ensure long-term infrastructure sustainability. Philosophically, I believe that localities should bear the responsibility to develop alternative energy equally. My understanding is that once the approved solar facilities are up and running, Clarke County will have met its responsibility in comparison to surrounding localities. In addition to these practical regulations, I would like to see these surrounding localities step up and make use of some of the large roof space available on their office buildings and data centers by putting solar panels up there rather than taking up our agricultural land.

Supervisor McKay

I agree. I was driving near Dulles and passing data center after data center with large, flat roofs on them and not a solar panel in sight. These centers are huge users of electricity and there is no reason that the urban areas cannot generate their share of solar energy instead of depending on the rural areas to do it for them. We need the farmland too badly to have it become solar facilities. The money generated from hundreds of acres of farmland comes back into the community as farmers buy fuel,

feed, animals, tires, and equipment. The money generated by hundreds of acres of solar facilities does not do the same.

Supervisor Lawrence

Requested clarification on the resolution's second stated objective.

- Brandon Stidham responded that, if the current regulations were changed to eliminate the solar power plant use, it would make any existing facilities or facilities with zoning approval non-conforming, which limits their ability to expand. With this point, the county aims to treat any existing facilities or facility with zoning approval as conforming uses.
- Chris Boies added that they would still need to get a Special Use Permit for any expansion.

Chairman Weiss

The Board initially included solar facilities in 2010 with trepidation. At the time, solar seemed to compete against agriculture, both in use of land and in the rentals and income that could be derived from it. That is exactly what has happened. For me, this is akin to sliding scale zoning and the developmental pressure on agriculture from houses in the 1980s. The amount of people who are coming to farmers and attempting to talk them in to solar is phenomenal. The financial bait they are hanging in front of farmers is crazy. The county has allowed solar and has provided, in our view, what is our share of the necessary energy. Solar is part of the energy grid; it needs to be and it will be in the future. However, if we do not have farmland, then we will not be able to eat and our zoning will be threatened. Objective one of the Comprehensive Plan is to preserve and protect agriculture. Solar fields degrade and endanger agriculture. If we allow the expansion of solar, there will not be a farm in Clarke County in ten years. We have to step forward and protect our farmland, it is that important. One of the selling points of solar is giving farmers another revenue source, but there is a flaw in that premise. The way to make more money farming is to become a better farmer: diversify, utilize everything you can, find better markets, etc. Taking your own land out of production for a short-term cash bonus is not a way to protect agriculture and is not the way to be a better farmer. It is not the county's responsibility to fix the bad management practices of farmers who are not making money. We are here to provide land and the opportunity for people to farm and make a living.

Supervisor Lawrence

Asked if the Planning Commission would be bound to the objectives stated in the resolution.

- Brandon Stidham answered that the Planning Commission would develop a text amendment to the Zoning Ordinance and hold public hearing on it. After

that, the Planning Commission would have to vote on it as well and could vote to support it, to send it forward with a recommendation to deny it, or could come up with an alternate text amendment approach to send forward.

Supervisor McKay moved to adopt 2023-16R – Resolution to Initiate Zoning Ordinance Text Amendment as presented. The motion carried by the following vote:

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

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Resolution to Initiate Zoning Ordinance Text Amendment 2023-16R

WHEREAS, the Board of Supervisors is concerned with the conversion of farmland and open space into other land uses including those uses which may be temporary; and

WHEREAS, solar power plants were added as an allowable use in 2010, resulting in the approval of a 20MW facility on 235 acres and the pending application of a 50MW facility on 406 acres; and

WHEREAS, while current zoning regulations limit the development of solar power plants to lots that are “adjacent to and all facilities located within one mile of a pre-existing electrical substation of 138kV or higher voltage”, there has been pressure from solar power plant developers and some county property owners to relax these regulations to allow more areas for these plants to be developed; and

WHEREAS, developers continue to solicit county property owners to develop solar power plants on their properties likely due to the County’s previous approval of a solar power plant and a misconception that the County is open to expanded development of these plants in other areas; and

WHEREAS, the immense area coverage required for solar power plants makes Agricultural-Open Space-Conversion (AOC) zoned lands the best area for development at the expense of county farmland.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Clarke County, Virginia, initiates the development of a text amendment to the Zoning Ordinance that would accomplish the following purposes:

1. Prohibit the development of any new solar power plants in the County.
2. Preserve solar power plants in existence or with zoning approval as conforming uses with the ability to expand within one mile of the pre-existing electrical substation which originally qualified the facility for development.
3. Protect the ability of County landowners to use “behind-the-meter” solar power primarily for their own onsite consumption and with incidental resale of excess power to service providers.

BE IT FURTHER RESOLVED that the Planning Commission and Department of Planning staff be directed to develop this text amendment, conduct required public hearings, and forward the text amendment to the Board of Supervisors for consideration.

APPROVED AND ORDERED ENTERED in the official records by the unanimous vote of the Clarke County Board of Supervisors’ members assembled on the 18th day of July, 2023.

ATTEST 2023-16R

David S. Weiss, Chair

10) *Set Public Hearing: Maximum Lot Size Exception Regulations (PH2023-08: TA23-02)*

Clarke County Director of Planning & Zoning, Brandon Stidham, presented the following:

- The proposed text amendment has been forwarded from the Planning Commission for the Board to consider scheduling a public hearing.
- Staff had requested policy direction from the Planning Commission in October 2022 and the purpose of the proposed text amendment is to incorporate the Commissioners' interpretations into Zoning Ordinance Section 6.2.6C.
- The amendment clarifies that a Maximum Lot Size Exception can be granted for a lot containing a dwelling existing on that lot prior to October 17, 1980 that was later demolished, and that a Maximum Lot Size Exception can be applied to any lot in a proposed subdivision. There are other additional changes proposed for clarification purposes and will make the regulations clearer and more straightforward to apply.

Chairman Weiss

- Asked why a maximum lot size exception would be necessary, if it is not tied to an existing lot.
 - o Brandon Stidham answered that, if performing a subdivision, it may be desirable to keep the lot that surrounds the original farmstead or tenant house as the larger lot.

Supervisor Lawrence

- Suggested scheduling a public hearing for September, as the August meeting falls during Fair Week.

Supervisor McKay moved to set public hearing PH2023-08: TA23-02 for September 19, 2023 at 6:30 pm or as soon thereafter as the matter may be heard. The motion carried by the following vote:

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

11) *Set Public Hearing: Farm Winery, Farm Brewery, and Farm Distillery Regulations (PH2023-09: TA23-03)*

Clarke County Director of Planning & Zoning, Brandon Stidham, presented the following:

- The General Assembly provided protections for farm wineries, farm breweries, and farm distilleries by limiting local zoning authority to regulate these uses. Per Code of Virginia §15.2-2288, these uses must be allowed by-right as agricultural operations and localities cannot require special use permits for them.
- Localities are also entirely preempted from regulating the following activities:
 - Production/harvesting of agricultural products and the manufacturing of wine, beer, or alcoholic beverages
 - On-premises sale, tasting, and consumption of wine, beer, or alcoholic beverages during regular business hours within the normal course of business of the operation
 - Direct sale and shipment of product to consumers, licensed wholesalers, and out-of-state purchasers
 - Storage, warehousing, and wholesaling of product
 - Sale of wine, beer, or alcoholic beverage-related items that are incidental to the sale of wine, beer, or alcoholic beverages
- State code language also states that local regulations “shall be reasonable and shall take into account the economic impact on the [farm winery, farm brewery, or farm distillery] of such restriction, the agricultural nature of such activities and events, and whether such activities are usual and customary for [such operations] throughout the Commonwealth.” The language continues, “Usual and customary activities and events at [such operations] shall be permitted without local regulation unless there is a substantial impact on the health, safety, or welfare of the public.”
- When the current regulations were adopted in 2015, there was one farm winery. Since then, the winery and craft brewery/distillery industry has exploded.
- Echoing the State Code preemptions above, the county requires a zoning permit to operate any farm winery, farm brewery, or farm distillery. Currently, the only requirements to obtain a zoning permit are approval of a State license to operate a farm winery, limited brewery, or limited distillery; issuance of a business license by the Commissioner of the Revenue; and approval of the private well and onsite sewage disposal system by the Virginia Department of Health for both domestic and process operations.
- Staff’s interpretation of “usual and customary activities” in reviewing these operations has been strict and has included tasting rooms; retail shops to sell

product and product-related items; sale of pre-packaged food items not requiring regulation as a “food establishment” by VDH; and temporary use of food trucks or off-site caterers.

- Staff’s interpretation has not included: public events, except for those permitted under Code of Clarke Chapter 57; retail sale of wine, beer, or alcoholic beverages produced by other off-site operations or merchandise not related to wine, beer, or alcoholic beverages; minor commercial public assembly events, such as weddings and private parties; live music or entertainment concerts that are promoted as events and/or charged a separate fee.
- The overall objective is to allow these agricultural operations to conduct their core functions of growing agricultural products and producing beverages for public sale and consumption without allowing them to become an event and entertainment destination under the guise of by-right agriculture.
- Such public-oriented activities may be allowable as special uses but should not be allowed as the by-right, “usual and customary activities” of an agricultural operation.
- Staff has also interpreted that farm wineries, farm breweries, and farm distilleries are required to be an agricultural operation located on the same lot or a contiguous lot under common ownership.

Supervisor Bass

- Questioned the reason for restricting on retail sale of items produced by other off-site operations.
 - Mr. Stidham advised that those retail sales do not fall under the by-right guise of agriculture if those products were not produced by the agricultural operation. Those retail sales could still be allowed by a Special Use Permit.

Chairman Weiss

- Clarified that these restrictions do not completely prohibit these activities. They could still be allowed under a Special Use Permit, which provides protection for the operations’ neighbors and gives them a voice in the process.

Brandon Stidham continued:

- The proposed text amendment codifies staff’s interpretation and application of the current regulations as they conform to State code requirements.
- Farm winery, farm brewery, and farm distillery uses would be combined into a single use with common use regulations, which are to be significantly expanded and divided into general use regulations and use regulations that apply specifically to operations that are open to the public.

- General use regulations contain the current State code language describing allowable activities as well as zoning permit requirements setting forth all administrative reviews necessary to protect the health, safety, and welfare of the general public. Additionally, a new minimum lot size requirement of five acres.
- Use regulations that would apply specifically to operations that are open to the public include the following categories: hours of operation, food service, entertainment activities and amplified sound, public road access, parking, outdoor lighting, erosion & sediment control, stormwater management, and specific activities that are not considered to be part of the by-right use.
- State code requires that local regulation of these operations consider three elements: the economic impact on the operation, the agricultural nature of the activities/events, and whether the activity being regulated is “usual and customary”.
- The Planning Commission held a public hearing on the amendments and received no comments from the public.

Vice Chair Catlett moved to set public hearing PH2023-09: TA23-03 for September 19, 2023 at 6:30 pm or as soon thereafter as the matter may be heard. The motion carried by the following vote:

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

12) *Board of Supervisors Personnel Committee Items from July 10, 2023*

A. Expiration of Term for Appointments Expiring through September 2023

2023-07-10 Summary: Following review, the Personnel Committee recommends the following:

- Appoint Christian Borel to replace Chris Bates on the Economic Development Advisory Committee for a term that expires on December 31, 2026.

2023-07-18 Action: Chris Boies reviewed the above summary.

Supervisor McKay moved to accept the Personnel Committee recommendation as presented. The motion carried by the following vote:

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

13) *Board of Supervisors Work Session Items from July 10, 2023*

Board of Supervisors Work Session Items
Berryville/Clarke County Government Center, 2nd Floor
101 Chalmers Court, Berryville, Virginia 22611
July 10, 2023, 10:00 am, Meeting Room AB

Board Members Present: David S. Weiss, Matthew E. Bass, Terri T. Catlett, Beverly B. McKay, Doug M. Lawrence

Board Members Absent: None

Officer / Staff Present: Chris Boies, Catherine Marsten, Cathy Kuehner

Others Present: None

Press Present: Mickey Powell, the Winchester Star

2023-07-10 Summary: At 10:00 am, Chairman Weiss called the meeting to order.

A. Courthouse Green Master Plan: Via video conference, members of Rhodeside Harwell Inc. (RHI) presented a draft of the Courthouse Green Master Plan project. Over the course of this project, RHI engaged with county staff, the Board of Supervisors and community members in order to assess and provide guidance for improving the Courthouse grounds based on the recommendations made to the Board of Supervisors by the Monument Committee in March 2021. The public was invited to provide feedback and comments at two separate open house events and RHI used this input while drafting the Master Plan.

The proposed Master Plan aims to provide a vision for the future of the Courthouse Green that maintains the historic integrity, improves accessibility and safety, upgrades the landscape, and provides suitable space and setting for the county to honor members of the community through an additional monument and interpretation.

Changes to the layout and alignment of walkways, grading and elevation improvements, and modifications to the landscaping and plantings would increase visual access and create physical space for more appropriate public use. The proposed plan includes more gracious and accessible ramps, upgraded materials for walkways, removing inappropriate landscaping, a location for second memorial feature, adding small retaining walls, and improving lighting.

The Board reviewed the draft report, asked various questions and provided comments to RHI on the draft of the proposed plan. RHI will incorporate this input and submit a final draft of the Courthouse Green Master Plan to the county.

By consensus, the Board agreed to consider the Courthouse Green Master Plan at the August 15, 2023 Regular Meeting.

At 11:11 am, Chairman Weiss adjourned the meeting.

2023-07-18 Action: Chris Boies reviewed the above summary:

- A draft of the report was sent to stakeholders within the courthouse complex.
- Overall feedback was concern about parking spaces behind the courthouse. It should be clear in the final report that those parking spaces will remain, as will the on street parking in front.

Chairman Weiss

- Clarified that the second monument and the contextualization for the current monument are elements of the project as a whole and are independent costs that the community and Board have committed to raise funds for. Independent of those two elements, there is a serious need to renovate the courthouse grounds to fix drainage and other issues that threaten the buildings.

Vice Chair Catlett

- Suggested it would be helpful to get guidance from RHI on community involvement or a potential contest to determine the second monument.

Chris Boies summarized:

- The Board's comments/issues should be submitted to RHI immediately; staff is working with the consultants to finalize the report, which will be considered at the August 15 meeting.
- Conversations with potential donors are being scheduled.
- County maintenance staff will be meeting to look at the drainage issues.
- Staff is getting pricing from RHI on including the design and potential contest processes in the next contract.

14) *Board of Supervisors Finance Committee Items from July 10, 2023*

A. Bills and Claims

2023-07-10 Summary: Following review, the Finance Committee recommends approving the June 2023 Invoice History report.

2023-07-18 Action: Chris Boies reviewed the above summary.

Vice Chair Catlett moved to approve the June 2023 Invoice History Report as presented. The motion carried by the following vote:

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

B. Standing Reports

- a. Year to Date Budget Report
- b. Reconciliation of Appropriations
- c. Capital Projects Report

2023-07-18 Action: Information Only.

15) *Joint Administrative Services Board Update*

Chris Boies advised that the Joint Administrative Services Board has not met.

16) *Government Projects Update*

Chris Boies provided the following update:

- For the Board’s August work session, Mr. Whetsell will be providing a detailed update from Fire & Rescue including updates on staffing and call numbers, an

update from the advisory group (FRAG) and the Fire & EMS Commission, and a discussion on code changes.

Supervisor Lawrence

- Requested a report of the recommendations that have come from the FireEMS Commission in the past and a legal opinion on the liability issues of using the title “Director” versus “Chief”.

Chris Boies continued the update:

- Applications for the Citizen’s Academy are now open and are due by August 15. This program begins in September and meets the third Friday of every month until June. Participants get to meet and network with public officials, visit various county and regional facilities, and learn about the many different aspects of county government. There is a \$50 tuition fee, but a generous donor has provided us the ability to offer scholarships.
- Staff met yesterday with the Potomac Appalachian Trail Club (PATC) at the Kohn property. The PATC has made progress there by removing invasive plant species, managing the meadow, and the general property maintenance. Everything looked great and the cabin is one of the most popular in their portfolio. They have a wonderful volunteer who takes great care of the property and the partnership seems to be accomplishing everything we had hoped.
- Bids were received last week for the zero depth pool entry, this project basically takes out the kiddie pool and creates a very gradual entrance to the pool which can be used by kids and is also helpful for our seniors. There will also be two small water features for kids to play with in this area. The project budget is \$200,000 and the bid for this portion is \$195,500. We also asked the vendors to price a new diving board and tile and coping replacement, as it is preferable to do these things while the pool is drained and a contractor already on site. The total for all of this work is \$270,500. We expect to have enough funds in capital carryforward and a special donation account for the park to make up for the \$70,500 needed. We would like to award the contract now so work can begin in September; the appropriation request would come through the Finance Committee later this fall.

Supervisor McKay moved to permit staff to proceed with a contract for planned renovations and repairs at the pool. The motion carried by the following vote:

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

17) *Miscellaneous Items*

None presented.

18) *Summary of Required Action*

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Process Employee of the Quarter Award	Catherine Marsten
2.	Process approved minutes	Catherine Marsten
3.	Execute approved resolutions	David Weiss
4.	Process approved resolutions & abstract of votes	Catherine Marsten
5.	Advertise September public hearings	Catherine Marsten
6.	Execute appointment letter	David Weiss
7.	Process appointment	Catherine Marsten
8.	Place Courthouse Green Master Plan on August agenda	Catherine Marsten
9.	Follow up on pricing for next design phase of project	Chris Boies
10.	Process bills & claims	Brenda Bennett
11.	Follow up with speakers from public comment	Matt Bass

19) *Board Member Committee Status Reports*

Supervisor Doug Lawrence

Board of Social Services

- o Meets at end of month.

School Board

- o Meets soon.

Regional Jail Authority

- o Meets soon.

Vice Chair Terri Catlett

Career and Technical Education

- o Has not met, nothing to report.

Historic Preservation Commission

- Brochure on Historic Overlay Districts is ready.

Clarke County Humane Foundation

- Meeting July 26 to discuss needs at the shelter.

Millwood

- Nothing to report.

Planning Commission

- Public hearing for REC's application is continued to September.

Community Policy and Management Team

- Finished needs assessment survey and discussed FAPT.

Supervisor Bev McKay

Berryville-Clarke County Joint Building Committee

- Has not met.

Town of Boyce

- Voted to hire Matt Hoff as Town Manager.
- Voted to install new sidewalk.

Northern Shenandoah Valley Regional Commission

- Did not meet.

Regional Airport Authority

- Nothing to report.

Conservation Easement Authority

- Nothing to report.

Sanitary Authority

- Approved a water connection to a woodworking shop and a lease for existing cell antennas on the Boyce water tower.

Supervisor Matthew Bass

Board of Septic and Well Appeals

- Approved a plan for a screened-in porch on a property off Lewisville Road.

Library Advisory Council

- Nothing to report.

Litter Committee

- Meets tonight.

Josephine School Community Museum Board

- Citizen provided comments earlier in meeting.

Legislative Updates

- New laws effective July 1, must move over for all stopped vehicles.

Northwestern Regional Adult Drug Treatment Court Advisory Committee

- Nothing to report.

Northwestern Regional Juvenile Detention Center Commission

- Nothing to report.

Sheriff's Office

- Nothing to report.

Town of Berryville

- Nothing to report.

Parks and Recreation Advisory Board

- Reconfiguring soccer fields for season, looking at alternatives for future.
- Set up several committee, including a policy committee and an honorees committee.

Chairman David Weiss

Fire/EMS Commission

- Contemplating future of the group, voted to stay in existence six more months, meet two more times, and try to decide on future in December. Ultimately, the Board of Supervisors has the final say.
- Discussed the Fire & Rescue Advisory Group (FRAG), which seems to be functioning and making progress. Commissioners have been invited to a FRAG meeting to witness for themselves.

Industrial Development Authority

- Meets next week.

Berryville-Clarke County Joint Committee on Economic Development & Tourism

- Meets next week.

20) *Adjournment*

Chairman Weiss adjourned the meeting at 3:39 pm.

21) *Next Regular Meeting Date*

The next regular meeting of the Board of Supervisors will be held on Tuesday, August 15, 2023, at 1:00 pm in the Berryville Clarke County Government Center, Main Meeting Room, 101 Chalmers Court, Berryville, Virginia.

ATTEST: July 18, 2023

David S. Weiss, Chairman

Chris Boies, County Administrator

Recorded and Transcribed by Catherine D. Marsten